

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
EBBA SEDGWICK)

Appearances:

For Appellant: Boyle & Wood and Ebba Sedgwick appearing
on her own behalf.
For Respondent: W. M. Walsh, Assistant Franchise Tax Commis-
sioner; James J. Hrditto, Franchise Tax Coun-
sel.

O P I N I O N

This appeal is made pursuant to Section 19 of the Personal Income Tax Act (Chapter 329, Statutes of 1935, as amended) from the action of the Franchise Tax **Commissioner in** overruling the protest of Ebba Sedgwick to a proposed assessment of additional tax in the amount of \$366.36 for the taxable year ended December 31, 1936.

In her return of income for the year 1936 the Appellant deducted from gross income the amount of \$13,800 as a loss resulting from the foreclosure sale of certain property acquired by her for profit. The Commissioner recognized that the loss was sustained, but limited the amount thereof to \$2,000 upon the ground that it constituted a capital loss within the meaning of Section 7(e) of the Personal Income Tax Act as enacted in 1935.

Section 7(e) then provided that gain or loss from sales or exchanges of capital assets should be taken into account as provided by Section 117 of the Federal Revenue Act of 1934 and incorporated that Section by reference. Since the time of the filing of this appeal the Supreme Court of the United States has held that losses arising from foreclosure sales of property acquired for profit are deductible for purposes of the Federal income tax only to the limited extent provided by Section 117(d) of the 1934 Act. Helvering v. Hammel, 311 U. S. 504; Electro-Chemical Engraving Company v. Commissioner of Internal Revenue, 311 U. S. 513. These decisions are entitled to great weight in the interpretation of the California Act (Meanley v. McColgan, 49 Cal, App. (2d) 203, 209) and require in our opinion that the action of the Commissioner be sustained.

Appeal of Ebba Sedgwick

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the action of **Chas. J. McColgan**, Franchise Tax Commissioner, in overruling the protest of Ebba Sedgwick to a proposed assessment of additional tax in the amount of ~~\$366.36~~ for the ~~taxable~~ year ended December 31, 1936, be and the same is hereby sustained.

Done at Sacramento, California, this 2nd day of December, 1942, by the State Board of Equalization.

R. E. Collins, Chairman
George R. Reilly, Member
Wm. G. Bonelli, Member

ATTEST: Dixwell L. Pierce, Secretary